IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 2924 of 2005

Between:

Smt.K.Pratibha, w/o.K.Saavaji Rao, Hindu, 42 years, R/o. Plot No.47, Road No.4, Gun Rock Enclave.

..... PETITIONER

AND

Vijayawada Municipal Corporation, represented by its Commissioner, Vijayawada.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, particularly one in the nature of writ of Mandamus, declaring the action of the respondent in demanding a sum of Rs.3,82,236.70 towards the alleged arrears of tax payable to the property bearing Dr.No.27-15-25, situated in Prakasam Road, Government of Vijayawada Municipal Corporation with old assessment No.20137 and New Assesssment No.180674 as illegal and ultra vires the provisions of Article 14 of the Constitution of India and also the mandatory provisions of the Hyderabad Municipal Corporation Act and the Rules framed thereunder on the subject from time to time.

Counsel for the Petitioner:MR.V.S.R.ANJANEYALU

Counsel for the Respondent No.: MR.T.S.VENKATARAMANA

The Court made the following :

O R D E R: (PER GB.J)

1) This writ petition is filed seeking a writ of Mandamus declaring the action of respondent Corporation in demanding a sum of Rs.3,82,236.70 towards arrears of tax payable in respect of Dr.No.27-15-25, situated in Prakasam Road, Governorpet of Vijayawada Municipal Corporation with Old Assessment No.20137 and New Assessment No.180674.

2) It is the case of the petitioner that initially the properties stood in the name of Venkateswara Rao and against the assessment of property tax, he filed C.M.A.No.164 of 1994 on the file of III Additional Senior Civil Judge, Vijayawada. While appeal was pending, he expired. Therefore, the petitioner was brought on

record as legal representative. She was represented by the G.P.A. Holder Mallikarnuna Rao. On 30.11.1998 the said appeal was allowed and the matter was remitted back to the Municipal authorities for fresh consideration.

3) The grievance of the petitioner is that no order has been passed by the respondent authorities till now. On the other hand, without serving any notice as required under law, the petitioner was asked to pay a sum of Rs.3,82,236.70 ps. towards the arrears of tax. Hence, this writ petition is filed.

4) Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5) It is seen from the record that the authorities of the Corporation have not passed any orders in pursuance of the orders passed by III Additional Senior Civil Judge, Vijayawada, in C.M.A.No.164 of 2004. It is also brought to the notice of this court that the petitioner fell in arrears of tax due to the respondent Corporation.

6) Taking into consideration the revised tax, the petitioner is liable to pay the tax up to date and in view of the fact that the petitioner has not complied with the earlier order passed in C.M.A.No.164 of 2004, we will dispose of the writ petition with the following directions;

i. *the petitioner shall be issued with a fresh assessment order taking into consideration the appeal filed by the petitioner in C.M.A.No.164 of 2004 and also the revisions if any, filed after the earlier assessment period;*

ii. *the petitioner shall submit a representation to the show cause notice and there after, the Municipality shall pass final orders. This exercise shall be done within a period of two months from the date of receipt of a copy of this order. Till such time, no coercive steps shall be taken.*

7) The writ petition is accordingly disposed of. No costs.

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G.BIKSHAPATHY.J.,

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P.S.NARAYANA.J.,

Dt. 05.04.2005

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1) 2 CD copies